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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,043	08/05/2003	Donald E. Weder	8403.956	4660
30589	7590	03/01/2005	EXAMINER	
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113			GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JE

Office Action Summary

Application No. 10/635,043	Applicant(s) WEDER ET AL.	
Examiner Jeffrey L. Gellner	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5 August 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 17, and 25-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1st document listed in foreign patent section of Applicant's 1st 1449) in view of Kugler (US 3,405,863).

As to Claim 1, Newport discloses a floral sleeve (Figs. 1 and 2) comprising a body having an upper end, a lower end, a first panel having a first upper edge and a first lower edge, a second panel having a second upper edge and a second lower edge, an interior space, the body having a single left side edge sealed from the upper end to the lower end (line 7 of page 3), a single right side edge sealed from the upper end to the lower end (line 7 of page 3), the first panel and the second panel together forming a sidewall in the body, the body tapered (Figs. 1 and 2) from the upper end to the lower end, and initially having a flattened condition (Figs. 1 and 2), and wherein when the body is opened from the flattened condition to an opened condition for containing a pot; and, a pot disposed within the interior space of the cover (Fig. 2). Not disclosed is the sleeve with a bottom having a lower bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge; and, a gusset

Art Unit: 3643

extending inwardly with an inner fold extending from the left to right sides. Kugler, however, discloses a sleeve with a bottom having a lower bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge (Figs. 1, 2, and 5); and, a gusset (28 of Fig. 5) extending inwardly with an inner fold extending from the left to right sides. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Newport by adding a bottom and gusset as disclosed by Kugler so as to allow the sleeve to accommodate curved articles (see Kugler at col. 1 lines 38-41), specifically, pots. The sleeve of Newport as modified by Kugler inherently performs the method steps recited in Claim 1.

As to Claim 2, Newport as modified by Kugler further disclose an upper edge that is horizontal (see Fig. 1 of Newport).

As to Claims 3 and 4, the limitations of Claim 1 are disclosed as described above. Not disclosed is the upper edge being angular or non-linear. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Kugler by making the upper edge angular or non-linear so as to meet consumer demand.

As to Claim 5; Newport as modified by Kugler further disclose a detachable upper portion via a detaching element (see Newport at Fig. 1).

As to Claim 6, Newport as modified by Kugler further disclose an upper portion adapted to support the body from a support device with a support element (12 of Fig. 1 of Newport).

Art Unit: 3643

As to Claim 7, Newport as modified by Kugler further disclose the upper portion sized to surround and encompass a floral grouping in a pot (Fig. 2 of Newport).

As to Claim 8, Newport as modified by Kugler further disclose an upper portion adapted to support the body from a support device (12 of Newport) and the upper portion sized to encompass a floral grouping disposed within a pot (Fig. 2 of Newport).

As to Claim 9, Newport as modified by Kugler further disclose perforations (Figs. 1 and 2 of Newport).

As to claim 25, Newport as modified by Kugler further disclose a skirt (region below perforations of Newport).

As to Claim 17, Newport discloses a floral sleeve (Figs. 1 and 2) comprising a body having an upper end, a lower end, a first panel having a first upper edge and a first lower edge, a second panel having a second upper edge and a second lower edge, an interior space, the body having a single left side edge sealed from the upper end to the lower end (line 7 of page 3), a single right side edge sealed from the upper end to the lower end (line 7 of page 3), the first panel and the second panel together forming a sidewall in the body, the body tapered (Figs. 1 and 2) from the upper end to the lower end, and initially having a flattened condition (Figs. 1 and 2), and wherein when the body is opened from the flattened condition to an opened condition for containing a pot; a pot disposed within the interior space of the cover (Fig. 2); and, an upper portion detachable by perforations (Figs. 1 and 2). Not disclosed is a bottom having a lower bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom

Art Unit: 3643

surface to the right side edge; and, a gusset extending inwardly with an inner fold extending from the left to right sides; and, perforations. Kugler, however, discloses a sleeve with a bottom having a lower bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge (Figs. 1, 2, and 5); and, a gusset (24 of Fig. 1) extending inwardly with an inner fold extending from the left to right sides; and, perforations (26 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Newport by adding a bottom and gusset as disclosed by Kugler so as to allow the sleeve to rounded objects such as pots (see Kugler at col. 1 lines 38-43) and to have the perforations with a non-linear edge as to meet consumer demand. The sleeve of Newport as modified by Kugler inherently performs the method steps recited in Claim 17.

As to Claim 26, Newport as modified by Kugler further disclose an upper portion adapted to support the body from a support device with a support element (12 of Fig. 1 of Newport).

As to claim 27, Newport as modified by Kugler further disclose a skirt (region below perforations of Newport).

Claims 10-12 and 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1st document listed in foreign patent section of Applicant's 1st 1449) in view of Kugler (US 3,405,863) in further view of Benoit (US 4,554,192).

As to Claims 10 and 18, the limitations of Claims 1 and 17 are disclosed as described above. Not disclosed is the floral sleeve in a pad. Benoit, however, discloses a floral sleeve in a pad (col. 5 lines 6-11). It would have been obvious to one of ordinary skill in the art at the time

Art Unit: 3643

of the invention to further modify the sleeve of Newport as modified by Kugler by using in a pad as disclosed by Benoit so as to improve the ease of use of the sleeves.

As to Claims 11 and 19, Newport as modified by Kugler as further modified by Benoit further disclose the pad being bonded (Benoit at col. 5 lines 6-11).

As to Claims 12 and 20, Newport as modified by Kugler as further modified by Benoit further disclose the pad clipped (Benoit at col. 5 lines 6-11).

Claims 13-16 and 21-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1st document listed in foreign patent section of Applicant's 1st 1449) in view of Kugler (US 3,405,863) in further view of Sievers (US 1,868,853).

As to Claims 13 and 21, the limitations of Claims 1 and 17 are disclosed as described above. Not disclosed is a securing element disposed about the sleeve. Sievers, however, discloses a securing element (14 of Fig. 1) about a sleeve with a potted plant therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Kugler by adding a securing element as disclosed by Sievers so as to meet consumer demand.

As to Claims 14 and 22, Newport as modified by Kugler as further modified by Sievers further disclose the securing element as a ribbon (14 of Fig. 1 of Sievers).

As to Claims 15 and 23, the limitations of Claim 13 and 23 are disclosed as described above. Not disclosed is the securing element placed above the upper end of the pot. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify

Art Unit: 3643

the sleeve of Newport as modified by Kugler and Sievers by placing the securing element above the pot so as to meet consumer demand.

As to Claims 16 and 24, Newport as modified by Kugler as further modified by Sievers further disclose the securing element placed below the upper end of the pot (Fig. 1 of Sievers).

Response to Arguments

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

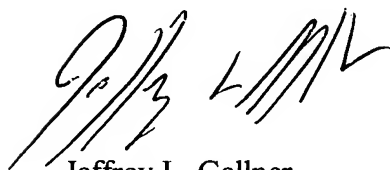
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

A handwritten signature in black ink, appearing to read 'J. L. Gellner', is written over the printed name.

Jeffrey L. Gellner
Primary Examiner